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Kalispel Tribe of Indians
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February 17, 2012

Christine Psyk, Associate Director
EPA Region 10 OWW, 1200 Sixth Ave, Suite 900
Seattle, WA 98101-3140

Re: EPA approval of Idaho Water Quality Standards

Dear Ms. Psyk:

Thank you for meeting with my staff yesterday to discuss EPA's forthcoming decision on the State of Idaho's proposed fish consumption rate ("FCR") of 17.5 g/day. As you now know, the Kalispel Tribe believes that it is essential that EPA's decision reflect a regional approach to managing water pollution and be protective of Indians and other vulnerable fish consumers. Because approving an FCR of 17.5 g/day in Idaho would not achieve either of these objectives, the Tribe urges EPA to follow the same course of action it took in Oregon and disapprove Idaho's revised water quality standards.

The vast body of tribal fish consumption data generated during Oregon's triennial review process provides compelling evidence for rejecting Idaho's proposed FCR. This data shows that regional tribal subsistence fishers currently consume fish at a rate well above the EPA default rate of 142 g/day. Because (1) many Kalispel people continue to subsist on fish, (2) many of these fish are harvested in waters that are in or originate from Idaho, and (3) water pollution does not heed state borders, it makes sense to require an FCR in Idaho that is at least as protective as the FCR that EPA approved in Oregon. Even if Washington were excluded from the equation, it is necessary to manage water pollution in the Idaho portion of the Columbia Basin based on an FCR of 175 g/day to protect Oregonians to the extent required by Oregon's water quality standards. This watershed perspective may help explain why EPA guidance endorses reliance on regional fish consumption data. As explained by Janine Jennings in her January 17, 2012 letter to the Department of Ecology:

In 2000, EPA updated its methodology for deriving human health criteria (2000 Methodology). In that document EPA urges states and tribes to use a fish intake level derived from local or regional data. Consideration of local data is important to ensure protection of the local populations, especially when that population includes subpopulations that eat larger quantities of fish and shellfish. A four preference hierarchy concerning the use of fish consumption rate data is set forth: (1) use of local data; (2) *use of data reflecting similar geography/population*

groups; (3) use of data from national surveys; and (4) use of EPA's default intake rate of 17.5 grams per day if no' state/site-specific information is available.

Based on the conversation at yesterday's meeting, it appears that EPA may be reluctant to use Columbia River fish consumption data to establish an FCR in northern Idaho. If EPA is indeed reluctant, the Tribe respectfully submits that the agency should resolve the uncertainty by funding fish consumption studies in that region or placing the burden on Idaho to show that tribes in northern Idaho and the Upper Columbia consume less fish than lower Columbia tribes. An essential part of any such study would be an inquiry as to why people eat less fish. If fish consumption is reduced because of water contamination, then the water quality standards would need to be as least as stringent as areas where it is safe for people to eat a lot of fish in order to avoid perpetuating an environmental injustice. Without a current fish consumption study of this nature, approving an FCR of 17.5 g/day for a portion of the state of Idaho risks creating an arbitrary and discriminatory situation.

The Kalispel Tribe is in the process of revising its water quality standards and hopes to submit new standards for EPA approval by October 1, 2012. The Tribe is committed to doing its part to protect water quality throughout the Columbia River watershed and will be submitting standards based on an FCR that is at least as stringent as the 175 g/day rate set by the State of Oregon and approved by EPA. The Tribe expects Washington and Idaho to take the same approach.

Regards,

A handwritten signature in blue ink, appearing to read "Deane", followed by a large, stylized flourish or "X" mark.

Deane Osterman, Executive Director
Kalispel Natural Resources Department

Cc via email: Marylou Soscia, EPA
DR Michel, UCUT